

1 **Q Please state your name, address, and occupation.**

2 A My name is Marci L. Norby. My business address is 2515 Warren Ave., Suite 304,  
3 Cheyenne, Wyoming, 82002. I am employed as a Senior Rate Analyst with the Office of  
4 Consumer Advocate.

5  
6 **Q Please describe your educational background, occupation, and experience.**

7 A I received a Master of Science degree in Finance from the University of Wyoming in 1999.  
8 The area of emphasis in my graduate work was the value of timing options in capital  
9 budgeting using the Black-Scholes model. After graduating I was employed as a financial  
10 analyst in the banking profession, where my duties included accounting, capital budgeting,  
11 financial budgeting, bond portfolio management and administration, institutional investing,  
12 economic analysis, and financial operations. I came to the Wyoming Public Service  
13 Commission in August of 2000 and then to the Office of Consumer Advocate in May of  
14 2003.

15  
16 **Q Have you testified before the Commission in previous proceedings?**

17 A Yes. I have testified in nine cases prior to this proceeding. I have testified in five general  
18 rate cases, one unbundled network element telecommunications cost case, two TSLRIC  
19 telecommunications cases, and one telecommunications service quality case.

20  
21 **Q On whose behalf do you appear today?**

22 A I appear in this case on behalf of the Office of Consumer Advocate (OCA).

23  
24 **Q As a member of the OCA do you advocate the interests of certain groups of  
25 consumers over others?**

26 A No. As a member of OCA it is my obligation to represent the interests of all Wyoming  
27 citizens and all classes of utility customers in the state.

1 **Q What is the purpose of your testimony in this proceeding?**

2 A The purpose of my testimony is to present the results of my review of the evidence  
3 presented by the Montana-Dakota Utilities Company (MDU or the Company) in this case.  
4 I present the OCA adjustments to the Company's financial presentation and the OCA's  
5 recommendations regarding the excess earnings of MDU.  
6

7 **Q Do you sponsor any exhibits in this proceeding?**

8 A Yes, I sponsor OCA Exhibits MLN-1 through MLN-4 in this proceeding. I will refer to my  
9 exhibits throughout my testimony.  
10

11 **Q How is your testimony organized?**

12 A First I present the scope of the investigation, the OCA review of the pro forma adjustments  
13 in this case, the calculated excess returns of MDU, and the OCA recommendations  
14 regarding the excess returns of MDU. I then present the OCA recommendations  
15 regarding the Commission directives in its August 11, 2003, and finally, a summary of the  
16 OCA recommendations.  
17

18 **Q What is the nature of this investigation?**

19 A The Commission opened this investigation in order to determine if MDU is earning a  
20 return that is above its allowed rate of return. In its Order dated August 11, 2003, the  
21 Commission directed MDU to, "show cause why the current non-commodity or commodity  
22 components of its retail gas rates should not be reduced if MDU is earning in excess of its  
23 authorized overall rate of return."  
24

25 This investigation encompasses all aspects of the Company's financial operation and  
26 known and measurable pro forma adjustments used in determining if MDU's commodity  
27 and the non-commodity retail rates are appropriate. The investigation is a result of the

1 excess returns presented by MDU in its pass-on application in Docket No. 30013-GP-03-  
2 138.

3  
4 **Q Does the Wyoming Public Service Commission have jurisdiction over the utilities**  
5 **in Wyoming?**

6 A Yes. Pursuant to W. S. § 37-2-112, “The commission shall have general and exclusive  
7 power to regulate and supervise every public utility within the state in accordance with  
8 the provisions of this act.”

9  
10 **Q Does any other public utility commission or any other entity have retail or**  
11 **intrastate rate setting jurisdiction over utilities in Wyoming?**

12 A No.

13  
14 **Q Why has the Commission denied the recent pass on requests of MDU?**

15 A Section 249 (b) of the Wyoming Public Service Commission Rules allows for the pass on  
16 of commodity costs if the evidence of the record shows that the pass on will not increase  
17 the utility’s rate of return, and its rate of return is at or below that last authorized by the  
18 Commission (if the rate of return is in excess of that authorized the pass on amount will be  
19 reduced accordingly). Therefore, the Commission has reduced the commodity portion of  
20 MDU’s rates in order to bring the company into compliance with its authorized overall rate  
21 of return.

22  
23 **Q What are the financial results presented by the Company in this case?**

24 A MDU has presented its actual results of operations and its calculated rate base as of June  
25 30, 2003. It has also presented its known and measurable pro forma adjustments and  
26 results. The pro forma adjustments include weather normalization, additions to rate base,  
27 normalization of retail sales to core customers including the approved rates determined in

1 the general rate case in Docket No. 30013-GR-02-127, new proposed depreciation rates,  
2 fully normalized deferred taxes, and adjustments to operating expenses.

3  
4 MDU's actual Wyoming results of operations as of June 30, 2003, presented by the  
5 Company illustrates a 4.216% return on rate base. The pro forma results demonstrate a  
6 9.119% return on rate base in Exhibit No. \_RAM-1, page 1. However, through discussions  
7 with the Company, the account "Taxes Other Than Income" is calculated incorrectly as  
8 presented by the Company in this exhibit. The correction increases this expense from  
9 \$27,294 to \$34,066 in OCA Exhibit MLN-1, column H, line 20 labeled "Other Taxes." This  
10 adjustment restates the pro forma rate of return on rate base from 9.119% to 8.98%,  
11 which includes the denial of the June and July pass on revenues that have been  
12 disallowed by the Commission. It is important to note that the results presented by MDU  
13 in Exhibit \_RAM-1, page 1 specifically exclude those revenues that were disallowed by the  
14 Commission in Docket No. 30013-GP-03-138 and 30013-GP-03-139.

15  
16 In Exhibit \_RAM-1, page 5, MDU has also presented a calculation that illustrates what the  
17 Company's pro forma return would be if the Commission reversed its decision in the  
18 above mentioned dockets and allowed the Company to recover the pass on revenues  
19 from its customers. In this exhibit, MDU plainly illustrates that the excess return on rate  
20 base would be 10.828%, which exceeds the return authorized by this Commission less  
21 than one year ago.

22  
23 **Q What is MDU's authorized rate of return on rate base in Wyoming?**

24 **A** Pursuant to the stipulation that was approved by the Commission in Docket No. 30013-  
25 GR-02-127, the Company's authorized overall rate of return on rate base in Wyoming is  
26 8.94%

1 **Q Why does the Commission set an authorized rate of return in its regulation of**  
2 **utilities in Wyoming?**

3 A The authorized rate of return is set by the Commission in order to ensure that the  
4 Company maintains a reasonable level of financial operating expenses, revenues, and  
5 rate base. The authorized rate of return is a tool for measuring the reasonableness of a  
6 utility's earnings and a guide in determining if customers are paying excessive rate levels.  
7 It is also an incentive for the Company to maintain efficiencies within its operation.  
8

9 **Q Do you agree with Mr. Ball's statement regarding the purpose of an authorized**  
10 **return?**

11 A No. Mr. Ball states in his testimony on page 4,  
12

13 *“Under this traditional regulatory compact, the utility is afforded an*  
14 *opportunity, but not a guarantee, to earn its allowed return. Whether or*  
15 *not the Company earns its allowed rate of return depends on a number*  
16 *of factors including weather, number of customers, use per customer,*  
17 *operating expense and investment levels as compared to the test year*  
18 *levels set in a general rate case. Given the multitude of items that*  
19 *affect earnings, it is unrealistic to expect that a utility will earn its*  
20 *allowed rate of return exactly. What can be expected is that the utility*  
21 *will earn more or less than its allowed rate of return depending on the*  
22 *factors involved. The allowed rate of return is a target to be achieved*  
23 *and should not be considered as a cap on the level of earnings that a*  
24 *utility may achieve in any particular twelve month period.”*  
25

26 MDU attempted to dispute the use of an authorized rate of return method in this case. The  
27 fact of the matter is that utilities in Wyoming have the opportunity to file an application

1 before the Commission requesting an alternative form of ratemaking, which may include a  
2 request to earn a return within a certain band. MDU has never filed such an application  
3 with this Commission. In addition, traditional regulation, under which MDU is regulated in  
4 the State of Wyoming, includes an allowed rate of return that is a “cap on the level of  
5 earnings”. That is exactly what happens when the Commission sets an allowed rate of  
6 return in a general rate case.

7  
8 By setting an authorized rate of return in a rate case proceeding, the Commission  
9 determines a reasonable level of operating expenses, revenues, rate base, return, and  
10 sets the rates that correspond to those appropriate levels of operation. If the Company is  
11 against the idea of a return cap, it should file an application proposing an alternative form  
12 of regulation in a separate proceeding. The point is, the Company is regulated under  
13 traditional regulation in the State of Wyoming and the allowed rate of return set by the  
14 Wyoming Public Service Commission is the highest return that the Company is and  
15 should be allowed to earn. It is unreasonable to expect that “the utility will earn more or  
16 less than its allowed rate of return”. It is reasonable to expect that due to operational  
17 changes through time, ratepayers will share in the increased efficiencies (decreased  
18 expenses or expenses spread over more customers) of the business through reduced  
19 rates and, as in rate cases, share in decreased efficiencies or known expense increases,  
20 through increased rates. In this case, there are more customers served by MDU and  
21 different expense levels presented here than projected in the rate case, therefore, the  
22 expenses of the Company should be appropriately distributed over more ratepayers  
23 (rates should be reduced). In addition, until rates are redistributed among the ratepayers,  
24 reducing the excess earnings level and the Company is exceeding its authorized rate of  
25 return the Commission must deny the pass on applications pursuant to Section 249(b) of  
26 the Commission Rules.

1 **Q Is MDU earning above its allowed rate of return in Wyoming?**

2 A Yes it is. The OCA has demonstrated in this case that it is earning an overall pro forma  
3 adjusted return on rate base of 8.98% in OCA Exhibit MLN-1, column L, line 30. This  
4 calculation takes into account the June and July PGA disallowance, which decreases the  
5 revenues by \$132,170 (Exhibit\_RAM-2, page 3).

6  
7 The Company has also shown in Exhibit\_RAM-1, page 5, that if the Company were  
8 allowed to collect in revenues the June and July changes in gas costs, it would be earning  
9 an overall pro forma adjusted rate of return on rate base of 10.828% (see also OCA  
10 Exhibit MLN-2, column G, line 30). The OCA did not correct the "Taxes Other Than  
11 Income" account in this exhibit, as this account is correct as presented by the Company in  
12 Exhibit\_RAM-1, page 5.

13  
14 **Q Is it appropriate to use pro forma adjustments in assessing the earnings levels for  
15 a company?**

16 A Yes. Pro forma estimations provide a normalization or routine depiction of the financial  
17 operations to ensure that an overall illustration of the Company's situation under  
18 standardized conditions that are reasonably expected or known by the Company. In this  
19 case, MDU has recently finished a rate case in December of 2002, in which the rates  
20 went into effect January 1, 2003. The Company has not experienced a full year of the new  
21 rates, therefore the rate of return depicted in the actual computation does not give an  
22 accurate picture of the earnings of the Company as it is known and measurable that the  
23 revenues of the company will be larger for the twelve months ending December 2003 than  
24 they are for the twelve months ending June 30, 2003.

25  
26 **Q Is the use of pro forma adjustments a common practice in Wyoming?**

27 A Yes, it is. Many companies provide pro forma presentations in annual pass-on

1 application data in order to account for known and measurable adjustments.

2  
3 **Q Are the pro forma adjustments made by MDU appropriate?**

4 A The pro forma adjustments presented by MDU in this case are appropriate, except the  
5 calculation error corrected in OCA Exhibit MLN-1.

6  
7 **Q Does the OCA have additional adjustments to the exhibits presented by MDU in  
8 this case?**

9 A The only adjustment the OCA has made in this case is the correction to the error in the tax  
10 calculation presented by the Company. The basic correction accounts for the use of the  
11 revenues used in Exhibit No.\_RAM-1 of \$15,585,377 for the calculation instead of the  
12 \$15,717,547 used in Exhibit No.\_RAM-2, pages 28 and 29. The revenues of  
13 \$15,717,547 used in this exhibit are the revenues calculated in Exhibit No.\_RAM-1, page  
14 5, which illustrates the revenues earned if MDU were allowed to recover all the gas costs  
15 that have been denied by the Commission. Therefore, the proper adjustment to reflect the  
16 disallowance of the collection of revenue relating to the disallowed June and July pass on  
17 applications (\$15,585,377) is the correct revenues that should be used in Exhibit\_RAM-2,  
18 pages 28 and 29 as it relates to Exhibit\_RAM-1.

19  
20 **Q Does the OCA agree with the new proposed depreciation rates?**

21 A The OCA has reviewed the summary of the proposed depreciation rates provided in  
22 Exhibit No.\_RAM-2, page 21. The previous depreciation study for MDU was conducted in  
23 1991. An example of the changes made in this study includes a change in the  
24 depreciation of computer equipment from an 8-year life to a 5-year life. This is an  
25 appropriate change as this is comparable to an average life calculated by other  
26 companies.

1 The OCA has reviewed the summary of proposed depreciation rates in this case.  
2 However, the OCA has requested, but does not expect to obtain a copy of the full  
3 depreciation study until after this testimony is filed. The OCA is only stating here that the  
4 rates resulting from the new study seem reasonable in the summary format, but the OCA  
5 is not making any recommendation on the study at this time.  
6

7 **Q Due to the fact that the Company was granted a rate increase in the general rate**  
8 **case in Docket No. 30013-GR-02-127, is it surprising that less than a year later the**  
9 **Company is over earning its allowed rate of return?**

10 A Yes it is. MDU, as well as other parties to the rate case conduct painstaking reviews of  
11 the financial and operation normalizations of the Company in order to produce  
12 appropriate rates in the rate case. The projected test year results for the year 2003, from  
13 which rates were based in the rate case, are significantly different in a few areas than  
14 what is projected in the pro forma results for the year 2003 in this case. Therefore, non-  
15 commodity rates need to be adjusted to produce results consistent with MDU's  
16 representation of normalized financial operations.  
17

18 **Q How do the numbers presented in this case compare with the resulting rate case**  
19 **results in Docket No. 30013-GR-02-127?**

20 A In OCA Exhibit MLN-1, column M, I outlined the differences between the OCA adjustments  
21 to MDU's presentation of the pro forma 2003 financial data in this case and the rate case  
22 summary from Docket No. 30013-GR-02-127. With the exclusion of recovery of the June  
23 and July 2003 pass on application revenues, MDU is still exceeding its authorized rate of  
24 return by 0.04%. The large differences illustrated in column M include the deferred tax  
25 expense, income, rate base, cost of gas, and other operation and maintenance expense.  
26 As stated above, the difference in the rate base, the increase in the number of customers,  
27 and the difference in the normalized expenses in the 2003 test year in the rate case and

1 the 2003 normalized results in this case have attributed to the excess earnings presented  
2 here.

3  
4 The difference in the financial data in this docket versus the product of the rate case  
5 illustrates that the rate case normalizations were not significantly aligned with the  
6 operation of the Company. It is not unreasonable to expect that the normalizations won't  
7 change through time. However, at the end of a general rate proceeding it is reasonable to  
8 expect that in less than a one-year period of time, the Company will not exceed its  
9 authorized return on rate base. However, if significant deviation above the Company's  
10 authorized return does occur, the rates must be re-examined in order to ensure that  
11 customers pay only reasonable and appropriate rates.

12  
13 In this investigation, the pro forma rate base falls short of the rate base calculated in the  
14 general rate case by \$53,318 (OCA Exhibit MLN-1, column M, line 28). In addition, the  
15 number of customers that MDU serves has increased by 174, or 1.16%, from that  
16 projected in the general rate case. As illustrated in the Company's Exhibit RAM-4, this  
17 accounts for an increase of decatherms used by MDU Wyoming customers of 168,623  
18 per annum and an increase in margin of \$149,980 per annum because there is an  
19 increase in revenues with out a corresponding increase in operating expense.

20  
21 **Q What has the Company shown in this investigation that is inconsistent with the**  
22 **rate case in Docket No. 30013-GR-02-127?**

23 **A** In addition to the higher projected rate base in the general rate case, on page 3 of Ms.  
24 Mulkern's testimony she states, "The pro forma cost of service is based on actual data for  
25 the twelve months ending June 30, 2003 adjusted to a 2003 test year." The rate case in  
26 Docket No. 30013-GR-02-127 was based on a projected test year of 2003. In this  
27 investigation, the Company is illustrating that a deferred income tax account balance of

1 zero is projected in the pro forma 2003 calculation. The rate case deferred tax were and  
2 tax deductions did not completely offset each other, rather this is a new method of  
3 calculation used by MDU as of January 1, 2003.  
4

5 In Ms. Mulkern's direct testimony on page 9, she states,  
6

7 *“Current income taxes were calculated using a federal income tax rate*  
8 *of 35.0%. Under this method, operating income before taxes is the*  
9 *starting point. Interest expense is deducted and the resulting taxable*  
10 *income is multiplied by the federal tax rate of 35 percent to arrive at a*  
11 *pro forma current income tax. Current income taxes are calculated*  
12 *using this method (operating income before taxes less a deduction for*  
13 *interest expense) because Wyoming taxes are now fully normalized,*  
14 *so tax deductions and deferred income taxes completely offset each*  
15 *other and therefore the tax deductions and deferred income taxes were*  
16 *eliminated.”*  
17

18 In the rate case, the projected balance in the deferred income tax account for the  
19 projected 2003 test year was not calculated in a manner that include a complete offset by  
20 the tax deductions. If taxes are now fully normalized and completely offset by tax  
21 deductions, the rates in the rate case are set too high. Therefore, the combination of the  
22 fact that the rate base is not yet at the projected levels in the rate case, the deferred  
23 income tax are now “completely offset” by tax deductions, MDU has experienced an  
24 increase in its customer base, and therefore, rates are rendering an earnings level that  
25 illustrates the rates are set at inappropriate levels.  
26

27 The denial of the June and July pass on only temporarily relieves the excess earnings of

1 MDU. Clearly this problem will persist each year until the non-commodity portion of rate is  
2 appropriately adjusted, as these rates will continue to produce earnings each year in  
3 excess of the allowed rate of return in Wyoming.

4  
5 **Q What are you recommending in regard to the fact that the Company is exceeding**  
6 **its authorized rate of return in this case?**

7 **A** The amount by which MDU is exceeding its excess returns in this case has decreased  
8 with the Commission disallowance of the June and July pass on increases in Docket No.  
9 30013-GP-03-139 and 30013-GP-03-138. However, the excess return has not  
10 decreased enough to bring the Company into compliance with the Commission rule,  
11 Section 249(b). MDU is still exceeding its authorized rate of return by 0.04%. MDU's  
12 revenues must be decreased by an additional \$2,227 (OCA Exhibit MLN-3). This  
13 disallowance must be made permanent or the excess earnings will immediately reappear.

14  
15  
16 Pursuant to Section 249(b) of the Commission Rules, the disallowance of the collection of  
17 revenues in Docket No. 30013-GP-03-138 and 30013-GP-03-139 should not be  
18 reversed. In addition, the Commission must deny \$2,227 of the August pass on  
19 application in Docket No. 30013-GP-03-140. It is clear that MDU has illustrated an  
20 earnings level that is in excess of that authorized by the Commission; therefore, the pass  
21 on amount must be reduced accordingly. It is clearly shown in this investigation that if the  
22 Commission's decision is reversed in Docket No. 30013-GP-03-138 and 30013-GP-03-  
23 139, the excess return earned is 10.828% of rate base (OCA exhibit MLN-2 and  
24 Exhibit\_RAM-1, page 5). The reversal of those decisions render the amount by which  
25 MDU is over earning to a level of \$94,910 as shown on OCA Exhibit MLN-2. The  
26 difference in the amount MDU is over earning between OCA Exhibit MLN-1 and MLN-2 is  
27 due to the fact that the excess return is used to pay for the additional cost of gas during

1 those months where the additional revenues were disallowed. The excess earnings of  
2 \$94,910 is different from the \$132,170 disallowance by the Commission in the pass on  
3 dockets because the \$94,910 includes the 2003 pro forma normalizations presented by  
4 the Company in this case.

5  
6 It is important to note that the disallowance of the collection of the revenues due to the  
7 increase in gas cost only temporarily brings MDU toward its allowed rate of return. If the  
8 non-commodity portion of rates is not adjusted, MDU will continue to over earn its allowed  
9 rate of return in the future. The reduction of the non-commodity portion of rates will not  
10 double the amount by which recovery is hindered, rather it will ensure that MDU's rates are  
11 based on the appropriate level of operations presented by the Company in this case.

12  
13 The Commission must adhere to its decision to disallow the recovery of the revenues in  
14 Docket No. 30013-GP-03-138 and 30013-GP-03-139 due to the fact that Section 249(b)  
15 of the Commission's rules are clear as to the results for a pass on application when a  
16 Company is exceeding its authorized rate of return. In addition, the Commission must  
17 order MDU to adjust its non-commodity rates in order to avoid over earning situations in  
18 the years to come.

19  
20 If the Commission fails to require the reduction in non-commodity rates, the Company's  
21 rates will produce revenues each year that are not appropriately aligned with its projected  
22 pro forma expenses. Revenues and expenses do not continue into the books in the next  
23 year, rather the revenues and expenses are recorded during the year and start over in  
24 accumulation each year. Therefore, the Commission must require MDU to adjust its non-  
25 commodity portion in rates in a compliance filing that reflect the appropriate reduction that  
26 the Company has illustrated with the pro forma adjustments in this case by the end of this  
27 year.

1  
2 **Q Why is it appropriate for the Commission to deny wholesale commodity cost**  
3 **increases?**

4 A It is clear in Section 249 of the Commission Rules

5  
6 ***Electric, Gas and Water Wholesale Utility Commodity Purchase***  
7 ***Pass on Procedure***

8 *Pursuant to W.S. 37-3-106 (1977) as may be amended and the rate*  
9 *filing requirements of this Chapter, a utility may file an application to*  
10 *pass on to its utility consumers in their rates, known or prospective cost*  
11 *increases or decreases in the utility’s wholesale utility commodity; and*  
12 *the same may be authorized, subject to public notice, opportunity for*  
13 *hearing, and refund, if the evidence of record shows that:*

14 *(b) The pass on will not increase the utilities rate of return, and its rate*  
15 *of return is at or below that last authorized by the Commission (if the*  
16 *rate of return is in excess of that authorized the pass on amount will be*  
17 *reduced accordingly).*

18  
19 The pass on applications in Docket No. 30013-GP-03-138 and 30013-GP-03-139 were  
20 denied in their entirety due to the fact that the rate of return of MDU is in excess of the  
21 Company’s authorized rate of return and the amount of the excess exceeds the sum of the  
22 increase in revenues requested by MDU in both of those dockets. There is no alternative  
23 but to solidify the denial of these two pass on applications.

24  
25 **Q In Ms. Mulkern’s testimony she stated that several of the increases the Company**  
26 **is experiencing in 2003 will subside in 2004 on page 12, should the Commission**  
27 **adopt a “wait and see” policy in this case?**

1 A Absolutely not. The Company has not presented any evidence that the increases in  
2 expenses in this case are a one-time event. In fact, the pro forma results presented by the  
3 Company indicate known and measurable expected revenues and expenses. In addition,  
4 it is MDU's burden in this case to illustrate any reason why its non-commodity or  
5 commodity costs should not be reduced. The Company has shown nothing in this case,  
6 as presented in the record at this point in time, that supports the statement made by Ms.  
7 Mulkern in her testimony. MDU has presented pro forma known and measurable  
8 adjustments. The adjustments presented by MDU should reflect the on going or forward  
9 looking normalizations. If one-time events were present in the financial data, the  
10 Company should have presented evidence to this fact and those one-time events would  
11 be taken into consideration. This has not happened here.

12  
13 The OCA recommendation is based on the pro forma normalizations of the Company.  
14 The OCA did not change the pro forma normalizations presented by the Company, except  
15 to correct a calculation error. The pro forma normalizations presented by the Company  
16 clearly illustrate excess returns. There is no evidence presented by any party that  
17 illustrates that there will be significant changes than what is presented in this case.

18  
19 **Q Has MDU complied with the Commission order initiating the investigation in this**  
20 **case?**

21 A The Commission directed MDU to "show cause why the current non-commodity or  
22 commodity components of its retail gas rates should not be reduced if MDU is earning  
23 excess of its authorized overall rate of return." MDU has attempted to show that the  
24 commodity portion should not be reduced because it is not appropriate to deny the  
25 commodity portion of rates by stating "the Commission has jurisdiction over the non-gas  
26 portion of the rates but not over the gas cost portion."<sup>1</sup> Mr. Ball spends a considerable

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1 Direct testimony of Don Ball, page 5, line 4 through 6.

1 portion of his pre-filed testimony discussing the validity of a properly promulgated rule of  
2 the Wyoming Public Service Commission. The scope of this investigation does not  
3 include the need for comment on Wyoming Public Service Commission rules. The  
4 arguments the Company presents in this investigation are inappropriate and without merit.  
5 The Wyoming Public Service Commission rules are properly promulgated and this  
6 investigation is well within the jurisdiction of the Wyoming Public Service Commission.  
7

8 MDU has addressed most of the Commission directives in the August 11, 2003, order.  
9 Among those items the Company has addressed include the manner in which the  
10 Company has calculated its earning levels, several assumptions and calculations of its  
11 pro forma adjustments, a suggestion for a simplified and regularized presentation of such  
12 calculation in conjunction with later PGA filings to ensure accuracy and comparability of  
13 data, proper treatment of the denied wholesale gas costs, and state and federal laws  
14 which the company contends might be applicable to this proceeding.  
15

16 MDU has not provided information of its financial analysis on a monthly basis or shown  
17 cause as to why its non-commodity portion of retail rates should not be reduced. The fact  
18 that MDU has not complied with all of the Commission directives issued in the August 11,  
19 2003, order compels the OCA to state that MDU is in violation of the order in this case.  
20

21 **Q In the direct testimony of Mr. Ball, he has a lengthy discussion of the current**  
22 **Commission rules regarding the pass on procedure. Do you have any comments**  
23 **on his discussion?**

24 **A** Yes I do. The discussion in Mr. Ball's direct testimony regarding the appropriateness of  
25 the Commission Rule, Section 249 is not the subject of this investigation. The  
26 investigation addresses the Company's earning levels pursuant to the current rules.  
27

1 **Q In it's August 11, 2003, order in this case, the Commission directed MDU to**  
2 **specifically address "any suggestions for a simplified and regularized**  
3 **presentation of such calculations in conjunction with later PGA filings to ensure**  
4 **accuracy and comparability of the data." Does the OCA agree with Mr. Ball's**  
5 **testimony that the Company's current method of reporting its earnings once per**  
6 **year is sufficient?**

7 **A** No. In the annual applications that are filed in May, the company does not consistently  
8 address its financial situation. The filing of the financial situation of the company does not  
9 need to be addressed more than once per year, however, the annual pass on filings with  
10 accompanying financial information need to contain consistent information.

11 In addition, MDU should be required to provide a narrative to explain its adjustments and  
12 show how the adjustments were calculated and why they are appropriate. Normally, the  
13 Company gives a one to two page illustration of the result and does not provide its  
14 calculations or any explanation that supports the summary. This hinders the analysis  
15 process considerably.

16  
17 **Q Do you have any comments regarding the comparison of the pro forma results**  
18 **presented here and the pro forma results the OCA presented in Docket No.**  
19 **30013-GP-03-139?**

20 **A** Yes. The data presented in that analysis is based on the data presented by the Company  
21 with adjustments to reflect a full year's worth of revenues collected from ratepayers  
22 stemming from the recent rate case. The OCA had a very limited amount of data, as the  
23 Company could not provide any other data at the time of its application that included  
24 explanations of its pro forma adjustments presented in its annual filing. In regard to the  
25 projection presented by the OCA in that docket, Ms. Mulkern's states in her testimony on  
26 page 11, "Although we believe the referenced returns were calculated from financial data  
27 supplied by the Company, they were excessive and illustrate the danger of taking isolated

1 bits of data in order to extrapolate a rate of return. The Commission must have accurate  
2 information in order to make an informed judgment. An accurate recommendation can  
3 only be made following an appropriate and detailed analysis.” I agree with this statement  
4 and it illustrates my point above that MDU should be required to provide a narrative to  
5 explain why its adjustments are appropriate and provide work papers to show how the  
6 adjustments were calculated and why they are appropriate in each annual pass on  
7 application with the Commission.

#### 8 **IV Summary**

9  
10 **Q Please provide a summary of the recommendations the OCA is making in this**  
11 **case.**

12 **A** MDU is regulated under traditional regulation in the State of Wyoming and is subject to the  
13 authorized rate of return set by the Commission. The Company is given the opportunity to  
14 earn up to its authorized rate of return in Wyoming. Pursuant to Section 249(b) of the  
15 Commission Rules, the Commission’s decision in Docket No. 30013-GP-03-138 and  
16 30013-GP-03-139 must not be reversed. In addition, the Commission must disallow  
17 \$2,227 in MDU’s next pass on application.

18  
19 Non-commodity rates also need to be adjusted to produce results consistent with MDU’s  
20 representation of normalized financial operations from year to year. The financial  
21 operations of the Company have been re-examined in this case in order to determine if  
22 customers are paying reasonable and appropriate rates. It is evident by the Company’s  
23 presentation of normalized pro forma results, that the rates are not reasonable and  
24 appropriate. The denial of the June and July pass on application only temporarily relieves  
25 the excess earnings of MDU. This problem will persist each year until the non-commodity  
26 portion of rate is appropriately adjusted, as these rates will continue to produce earnings  
27 each year in excess of the allowed rate of return in Wyoming. If the non-commodity

1 portion of rates is not adjusted, MDU will continue to exceed its authorized rate of return in  
2 the future.

3  
4 The reduction of the non-commodity portion of rates will ensure that MDU's rates are  
5 based on the appropriate level of operations presented by the Company in this case. The  
6 OCA is recommending that the Commission deny the appropriate pass on rates as is  
7 dictated by the Commission Rules. The OCA is also recommending that MDU adjust its  
8 non-commodity rates by the end of 2003 so that this problem does not persist each year  
9 into the future. The disallowance of the pass on dockets will ensure the excess returns are  
10 not earned by MDU in 2003. The reduction of the non-commodity rates recommended to  
11 be effective January 1, 2004, based on the data provided by the Company in this  
12 investigation will ensure this problem does not persist in 2004 and each year thereafter.

13  
14 If the Commission fails to require the reduction in non-commodity rates, the Company's  
15 rates will produce revenues each year that are not appropriately aligned with its projected  
16 pro forma expenses produced in this investigation. Revenues and expenses do not  
17 continue into the books in the next year, rather the revenues and expenses are recorded  
18 during the year and start over in accumulation each year. Therefore, the Commission  
19 must require MDU to adjust its non-commodity portion in rates in a compliance filing that  
20 reflect the appropriate reduction that the Company has illustrated with the pro forma  
21 adjustments in this case by the end of this year. The compliance filing should include an  
22 adjustment to rates based on the data the Company has provided in this case and a  
23 supporting illustration of calculations of the appropriate reduction in revenues.

24  
25 MDU has not presented evidence in the investigation that supports its claim that it will  
26 experience an increase in expense levels in 2004 that is higher than in 2003. If expenses  
27 were expected to increase in 2004, the company should have taken this into

1 consideration and presented meaningful evidence that supports this claim, as it's the  
2 Company's burden to demonstrate why its non-commodity rates should not be reduced in  
3 this investigation.

4

5 **Q Does this conclude your testimony?**

6 **A** Yes it does.